

REPORT TO THE LEGISLATURE

CALENDAR YEAR 2002 STORM WATER ENFORCEMENT ACTIONS RELATED TO NON-SUBMITTAL OF ANNUAL REPORTS AND FAILURE TO OBTAIN A PERMIT

Executive Summary

Pursuant to section 13399.39 of the Water Code, the State Water Resources Control Board (SWRCB) has prepared this report to the Legislature to summarize the actions undertaken in the previous calendar year with regard to filing specified reports for storm water discharge and the results of those actions.

The Storm Water Enforcement Act of 1998 (Act), commencing with section 13399.25 of the Water Code, establishes specific notification and enforcement procedures to be implemented by the Regional Water Quality Control Boards (RWQCBs) to ensure compliance by industrial storm water dischargers with the requirements set forth in the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activity (General Industrial Permit). The Act also establishes reporting requirements for SWRCB to inform the public and the Legislature concerning specified storm water enforcement activities.

During 2002, SWRCB and RWQCBs continued to track the submittal of annual reports by industrial storm water dischargers and complied with the enforcement procedures required in the Act for those dischargers failing to submit the annual report. SWRCB Internet web site continues to provide a summary, which is updated daily, of annual reports and submittals and enforcement actions. This information may be found at <http://www.swrcb.ca.gov/stormwtr/annualreport.html>

The 2002 annual reports were due on July 1, 2002. Annual reports were not received in a timely manner from 1,446 (or 15 percent) of the 9,608 facilities that were covered under the General Industrial Permit. RWQCBs subsequently sent out first (1446) and second (332) warning letters, which resulted in all but 80 reports being submitted. The RWQCBs issued four Administrative Civil Liabilities (ACLs) for the non-submittal annual reports. (Table 1)

Due to resource constraints, SWRCB has not been able to complete the development of an automated system to track RWQCB notification and enforcement actions taken against facilities that have failed to obtain coverage under the General Industrial Permit or failed to submit a notice of intent (NOI) to obtain coverage. However, based upon information provided by RWQCBs, efforts have been made to identify non-filers. In 2002, RWQCBs mailed 336 first notice letters and 27 second notice letters, and one ACL was issued. (Table 2)

Enforcement Actions Taken in 2002

1. Non-Submittal of Annual Reports

Under section B.14 of the General Industrial Permit, facilities covered by the permit are required to submit an annual report by July 1 of each year. The report is to summarize the discharger's compliance activities, including visual observations, sampling and analysis and an evaluation of the discharger's storm water pollution prevention and monitoring programs.

The Act requires RWQCBs to review the annual reports submitted by the dischargers, identify the dischargers that have not submitted the annual report, notify those dischargers of their noncompliance, and impose penalties on those that fail to comply after being notified a second time by the RWQCB.

During 2002, first warning letters were sent to 1,456 dischargers who did not submit an annual report in a timely fashion. Second warning letters were sent to 332 dischargers that did not respond to the first warning letters. There are 80 annual reports that have yet to be filed with RWQCBs. Four ACLs were issued in 2002 for the failure to submit the 2002 annual report. However, as many as 80 ACLs could be issued by RWQCBs in 2003.

Pursuant to Water Code section 13399.27, SWRCB provides the public on its Web site (<http://www.swrcb.ca.gov/stormwtr/annualreport.html>) the information related to the submittal of annual reports by industrial storm water dischargers.

2. Failure to Obtain Coverage under a Permit (NOI Non-filers)

The Act requires RWQCBs to undertake reasonable efforts each year to identify dischargers of storm water who have not obtained coverage under an appropriate NPDES storm water permit. It requires those dischargers to submit to RWQCB an NOI to obtain coverage or a notice of non-applicability within 30 days of receiving a notice from that RWQCB. The law also requires RWQCBs to impose penalties on those dischargers who fail to submit NOIs after being notified the second time of noncompliance by an RWQCB.

Due to the large number of industrial and construction activities in the state and the lack of an effective statewide tracking system, it is extremely resource intensive to identify NOI non-filers and track the notification and enforcement activities. SWRCB and RWQCBs do not track this information electronically at this time. RWQCBs continued to track NOI non-filers manually and sent first warning letters to 336 facilities in 2002. Second notices were sent to 27 of these facilities and one ACL was issued.

Phase II of the NPDES storm water program has expanded the scope of the industrial storm water program by requiring that all industries be subject to the permit requirements or to file a No Exposure Certification (NEC) form if a facility meets the "conditional exclusion" criteria. (Currently, Phase I of the program allows categorical exemptions without NEC filing requirements). By the end of calendar year 2003, SWRCB is expected to implement these requirements. At that time, an additional 30,000 to 40,000 will be required to file an NEC and could be potential non-filers. In expectation of this additional workload, SWRCB is expected to complete by July 1, 2003: (1) overhauling its storm water data management database, and (2) implementing an electronic NEC reporting system. We believe these information technology upgrades will help future implementation of non-filer identification and enforcement activities required by the Act.

Conclusion

SWRCB and RWQCBs have been successful in reducing the number of dischargers who have failed to file an annual report. After first and second warning letters were issued in 2002, only 80 facilities (less than one percent) of 9,608 facilities remain in violation. The non-filer identification activities have been slowed due to resource constraints and other storm water priorities. However, SWRCB is in the process of developing the capability for electronic filing of NEC under Phase II of the federal storm water program. This upgraded system will also provide the capability needed to identify non-filers and track any subsequent enforcement actions.

**TABLE 1
CALENDAR YEAR 2002
ANNUAL REPORT ENFORCEMENT ACTIONS**

REGIONAL BOARD	WARNING LETTERS		ACL	PENALTIES	
	1 ST	2 ND		ASSESSED	COLLECTED
1	0	0	0	0	0
2	355	93	0	0	0
3	32	14	0	0	0
4	366	155	4	15,920	7,329
5	412	0	0	0	0
6	18	2	0	0	0
7	21	0	0	0	0
8	216	68	0	0	0
9	36	0	0	0	0
TOTAL:	1456	332	4	15,920	7,329

**TABLE 2
CALENDAR YEAR 2002
NON FILER ENFORCEMENT ACTIONS**

REGIONAL BOARD	WARNING LETTERS		ACL	PENALTIES	
	1 ST	2 ND		ASSESSED	COLLECTED
1	0	0	0	0	0
2	55	0	0	0	0
3	24	0	0	0	0
4	144	6	0	0	0
5	11	0	0	0	0
6	0	0	0	0	0
7	0	0	0	0	0
8	87	21	1	5,000	1,000
9	15	0	0	0	0
TOTAL:	336	27	1	5,000	1,000